

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

ANDERSEN MANUFACTURING INC.,
an Idaho corporation,

Plaintiff,

v.

WYERS PRODUCTS GROUP, INC.,
a Colorado corporation,

Defendant.

Case No. 4:16-CV-51-BLW

**MEMORANDUM DECISION AND
ORDER**

INTRODUCTION

The Court has before it a motion to stay along with three motions to supplement. The motions are fully briefed and at issue. The Court will grant all three motions to supplement, and will deny the motion to stay for the reasons explained below.

ANALYSIS

Defendant Wyers requests a stay because the Patent Office has recently ordered the reexamination of the three patents at issue here. While the reexaminations could simplify the issues for trial, the delay will be extensive. Most of these reexaminations, including the inevitable appeal to the Patent Trial and Appeal Board, take three to five years to resolve. *Signal IP, Inc. v. Volkswagen Group of America, Inc.*, 2015 WL 57648331 at *2 (C.D.Calif May 26, 2015). Moreover, the simplification of issues is not automatic because if the patents survive, Wyers will be able to relitigate the issues here because it requested an *ex parte* reexamination, which has no preclusive effect on the

challenger. *Id.* at *3. By the time the Patent Office granted reexaminations as to all the patents – on November 18, 2016 – this case had been pending nearly 11 months. A claim construction hearing is set for next week and is fully briefed. Given all these circumstances, the Court will deny the motion to stay.

ORDER

Pursuant to the Memorandum Decision set forth above,

NOW THEREFORE IT IS HEREBY ORDERED, that the three motions to supplement (docket nos. 41,45 & 52) are GRANTED.

IT IS FURTHER ORDERED, that the motion to stay (docket no. 28) is DENIED.



DATED: December 8, 2016

A handwritten signature in black ink that reads "B. Lynn Winmill". The signature is written in a cursive style and is positioned above a horizontal line.

B. Lynn Winmill
Chief Judge
United States District Court